

Message Text

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ACTION SNM-05

INFO OCT-01 EUR-12 ISO-00 DEAE-00 CIAE-00 INR-10 IO-13
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FM AMEMBASSY SOFIA
TO SECSTATE WASHDC 5024

C O N F I D E N T I A L SECTION 1 OF 2 SOFIA 1565

E.O. 11652: GDS
TAGS: SNAR, BU
SUBJECT: NARCOTICS LAWS IN BULGARIA

REF: STATE 170187

1. SUMMARY: BULGARIAN LAW REGARDING NARCOTICS OFFENSES IS VAGUE, OUTMODED, LARGELY UNPUBLISHED, AND OTHERWISE NOT CODIFIED IN A WAY SUITABLE FOR PLANNED COMPILATION (REFTEL). BULGARIAN CUSTOMS PROMISES EMBASSY A FULL RESPONSE TO QUESTIONS IN OCTOBER. FOR INFORMATION OF DEPT, WE INCLUDE A SUMMARY OF THE PUBLISHED LAW (FULL TEXT BEING POUCHED) AND CURRENT PRACTICES BASED ON OUR AND OTHER WESTERN EMBASSIES' EXPERIENCE. HOWEVER, PER REQUEST BULGARIAN CUSTOMS, WE WOULD ASK THAT GOB'S FORTHCOMING OFFICIAL RESPONSE, NOT CURRENT LAW, BE INCLUDED IN COMPIATION. END SUMMARY.

2. INDIVIDUALS ARRESTED FOR NARCOTICS VIOLATIONS ARE GENERALLY PROSECUTED UNDER THE TERMS OF THE LAWS DEALING WITH CUSTOMS VIOLATIONS, THOUGH THE POSSESSION OF NARCOTICS IS ALSO PROHIBITED UNDER THE NATIONAL HEALTH LAWS. (MOST FOREIGN CITIZENS ARE ARRESTED AT TURKISH AND YUGOSLAV BORDERCROSSING POINTS.) INFORMATION PRES-
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ENTLY AVAILABLE TO EMBASSY IS LARGELY BASED ON PUBLISHED TEXTS OF BULGARIAN CRIMINAL CODE (NAKAZATELEN KODEKS) AND

EXPERIENCE OF OTHER WESTERN EMBASSIES REGARDING THEIR FOREIGN NATIONALS ARRESTED AND IMPRISONED IN BULGARIA. THE BULGARIAN CUSTOMS SERVICE PROMISES US A FULL RESPONSE IN OCTOBER AFTER OOE SEPTEMBER VARNA CONFERENCE WHICH IS

NOW ITS FULL-TIME OCCUPATION.

3. THE TEXT OF THE BULGARIAN LAW GOVERNING CUSTOMS VIOLATIONS (ARTICLE 242) READS IN PART:

"A PERSON WHO CARRIES DRUGS OVER THE BORDER OF THE COUNTRY, WITHOUT THE KNOWLEDGE AND PERMISSION OF THE CUSTOMS SERVICE IS SENTENCED TO IMPRISONMENT UP TO SIX YEARS AND TO A FINE UP TO TWO THOUSAND LEVA, BUT NOT LESS THAN THE CUSTOMS' DUTIES OWED."

AS ARTICLE 242 INDICATES, THERE IS NO DIFFERENTIATION MADE IN EITHER THE KINDS OF NARCOTICS LISTED AS CONTRABAND OR BETWEEN POSSESSION, USE, AND TRAFFICKING. NOR IS THERE REFERENCE TO SPECIFIC ENFORCEMENT REGULATIONS OR THE AMOUNTS NECESSARY TO QUALIFY AS AN OFFENCE.

THE LANGUAGE OF THE NATIONAL HEALTH LAWS (ARTICLE 354 OF THE KODEKS) REGARDING NARCOTICS OFFENSES STATES:

"A PERSON WHO, WITHOUT DUE PERMISSION, ACQUIRES, KEEPS, CONVEYS, OR DELIVERS TO SOMEONE ELSE A DRUG WHICH IS UNDER A LICENSING REQUIREMENT, IS SENTENCED TO IMPRISONMENT UP TO TWO YEARS OR TO A FINE UP TO THREE HUNDRED LEVA. IF CRIME IS COMMITTED REPEATEDLY, THE SENTENCE IS IMPRISONMENT UP TO THREE YEARS AND A FINE UP TO 1000 LEVA. THE DRUG IS CONFISCATED BY THE STATE."
(ONE LEVA EQUALS US\$.90.)

THE ARTICLE PROVIDES FOR PENALTIES OF IMPRISONMENT
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FOR TERMS OF TWO TO EIGHT YEARS. AGAIN, NO DISTINCTIONS ARE MADE WITH RESPECT TO POSSESSION, USE, OR TRAFFICKING NOR IS THERE ANY INDICATION OF THE SPECIFIC ENFORCEMENT REGULNCIONS.

4. THE AVAILABLE DETAILED INFORMATION ON BULGARIAN CRIMINAL PROCEDURES FOR VIOLATIONS OF BULGARIAN NARCOTICS LAWS IS LIMITED. IT THEREFORE MAY BE INSTRUCTIVE TO REVIEW BULGARIAN PRACTICE IN THOSE KNOWN CASES OF PROSECUTION OF FOREIGN NATIONALS (PRINCIPALLY WEST GERMAN CITIZENS IN TRANSIT THROUGH BULGARIA FROM TURKEY TO YUGOSLAVIA VIA HIGHWAY E-5). BASED ON INFORMATION SUPPLIED BY THE WEST GERMAN EMBASSY CONCERNING TWENTY SUCH CASES WHICH HAVE OCCURRED OVER THE PAST TWO YEARS, IT APPEARS THAT BULGARIAN PROCEDURES PROVIDE FOR A PERIOD OF APPROXIMATELY FOUR WEEKS FOLLOWING ARREST DURING WHICH THE BULGARIAN AUTHORITIES CONDUCT AN INVESTIGATION TO DETERMINE THE FACTS OF THE CASE. THOUGH THE WEST GERMAN COUNSUL RARELY HAS BEEN

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ALLOWED COFULAR ACCESS DURING THE INVESTIGATIVE PERIOD, WE WOULD EXPECT THAT THE US CONSUL, UNDER THE TERMS OF THE 1974 CONSULAR CONVENTION BETWEEN BULGARIA AND THE US, WOULD BE GRANTED CONSULAR ACCESS WITHIN FOUR DAYS, IF NOT SOONER. IN ANY EVENT, THE DEFENDANT IS PROVIDED, UPON REQUEST, WITH LEGAL CONSEL THROUGH THE BULGARIAN LAW OFFICE FOR FOREIGN LEGAL MATTERS (FEE -- APPROXIAMTELY US\$300).

5. AFTER THE PERIOD REQUIRED FOR THE INVESTIGATION AND THE PREPARATION OF THE PROSECUTIONS' CASE, A TRIAL, CEN-ERALLY LWYLC" BUT ONE DAY, IS HELD AND A VERDICT, ALMOST INVARIABLY GUILTY, AND SENTENCE ARE HANDED DOWN. THERE IS PROVISION FOR A TWO-WEEK PERIOD FOLLOWING SENTENCING DURING WHICH THE DEFENDANT MAY FILE AN APPEAL OF THE VERDICT AND SENTENCE. SUCH APPEALS (LAWYER'S FEE AGAIN APPROXIAMTELY US\$300) USUALLY REQUIRE ONE MONTH TO BE HEARD AND IN MOST CASES THE VERDICT AND SENTENCE ARE SUSTAINED. IN THOSE REMAINING CASES, THE VERDICT HAS NOT BEEN REVERSED, BUT THE SENTENCE HAS BEEN REDUCED OR INCREASED, DEPENDING ON THE INCLINATION OF THE COURT HEARING THE APPEAL.

6. IT APPEARS THAT MOST ARRESTS MADE FOR NARCOTICS OFFENSES IN BULGARIA ARE FOR ILLEGAL IMPORTATION OF MARIJUANA AND
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HEROIN. IN THOSE CASES INVOLVING MARIJUANA AS CONTRABAND, SENTENING HAS GENERALLY BEEN AS FOLLOWS: A) THREE TO SIX MONTHS FOR AMOUNTS UP TO TEN KILOS, AND B) ONE TO TEN YEARS

FOR AMOUNTS OVER TEN KILOS. AGAIN, ACCORDING TO THE WEST GERMAN EMBASSY, THE TYPICAL CASE WOULD INVOLVE CONTRABAND TOTALLING THIRTY KILOS OF MARIJUANA AND RESULTING IN A PRISON TERM OF THREE YEARS. EMBASSY HAS NO SPECIFIC INFORMATION CONCERNING HEROIN AS CONTRABAND AND RELATED PENALTIES.

7. EMBASSY BELIEVES BULGARIAN ENFORCEMENT PRACTICE AS OUTLINED ABOVE WOULD LIKELY BE THE SAME IF A US CITIZEN WERE TO BE ARRESTED UNDER SIMILAR CIRCUMSTANCES.

8. EMBASSY ANTICIPATES HAVING SPECIFIC INFORMATION PER FTEL FROM BULGARIAN CUSTOMS AFTER SEPTEMBER VARNA CONFERENCE ON NARCOTICS.
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